amount to a waiver. *Ward* v. *Day*, 4 B. & S. 337; *Green's Case*, Cro. Eliz. 3; *Doe* v. *Miller*, 2 C. & P. 348. To predicate the same consequences, however, on the use of the word "lease" in an application by the landlord, which itself recognizes nothing more than the receiver's right to the term subject to existing conditions, seems to be a considerable extension of the doctrine of waiver.

LANDLORD AND TENANT — REPAIR AND USE OF PREMISES — EXTENT OF LANDLORD'S LIABILITY FOR DANGEROUS PREMISES REMAINING UNDER HIS CONTROL. — The plaintiff, the wife of a tenant, received personal injuries while using a common stairway in the tenement which remained in the control of the landlord, the defendant. The jury found that the landlord was negligent in failing to provide a sufficient railing, but that this condition was known to the plaintiff and defendant alike. *Held*, that the plaintiff cannot recover. *Lucy* v. *Bawden*, [1914] 2 K. B. 318.

The plaintiff, a child of tender years, whose father was a tenant, was injured by falling through a gap in the railings attached to the area steps of a tenement house. The steps were used by all the tenants in common, and remained in the possession of the landlord. The jury found that the railings were defective at the time of letting, and dangerous to children, but that the defect was not a trap. *Held*, that the plaintiff cannot recover. *Dobson* v. *Horsley*, 137 L. T. J. 563 (Ct. App.).

In each case the plaintiff was not a party to the lease, and therefore took no advantage from the English statute imposing on the owners of tenement houses a duty to keep the premises in a reasonably safe condition. 9 Edw. VII., c. 44, §§ 14, 15; *Middleton* v. *Hall*, 108 L. T. R. 804; *Ryall* v. *Kidwell*, [1914] 3 K. B. 135. Apart from statute, however, the landlord owes a duty to the tenant, his family and guests, to take care to maintain the premises remaining under his control in reasonably safe repair. *Miller* v. *Hancock*, [1893] 2 Q. B. 177; *Hargroves, Aronson & Co.* v. *Hartopp*, [1905] 1 K. B. 472; *cf. Ivay* v. *Hedges*, 9 Q. B. D. 80. This obligation is similar to that owed by an occupier to invited persons. *Indermaur* v. *Dames*, L. R. 1 C. P. 274, L. R. 2 C. P. 311. See SALMOND, TORTS, 3 ed., p. 373. Authorities differ as to whether this duty requires the landlord only to give notice, or to keep the premises reasonably safe. The weight of English opinion undoubtedly regards mere warning against unexpected dangers as sufficient. See *Cavalier* v. *Pope*, [1906] A. C. 428, 432; *Smith* v. *London & St. Katharine Docks*, L. R. 3 C. P. 326, 333. Upon this reasoning, the two principal cases are clearly justified. But in certain analogous cases, mere notice of the danger is no defense. *Smith* v. *Baker*, [1891] A. C. 325. The American authorities, on the other hand, tend to impose a greater duty on the landlord,—to keep the premises in a reasonably safe condition, even though the defect is known. *Lang* v. *Hill*, 157, Mo. App. 685, 138 S. W. 698; *Sawyer* v. *McGillicuddy*, 81 Me. 318, 17 Atl. 124; *Farley* v. *Byers*, 106 Minn. 260, 118 N. W. 1023. In view of the relation of landlord and tenant, this more liberal doctrine seems preferable. Even in this country, however, the defense of voluntary assumption of risk is open, and some states also deny recovery to the tenant if the defect was known when the tenancy began, and no substantial change has since occurred. *Quinn* v. *Perham*, 151 Mass. 162, 23 N. E. 735; see *Woods* v. *Naumkeag Steam Cotton Co.*, 134 Mass. 357.

LANDLORD AND TENANT — SURRENDER BY OPERATION OF LAW — RELETTING OF PREMISES BY LANDLORD. — A lease expressly authorized the lessor to reënter and terminate the lease for default in the payment of rent, but made no provision for reletting on account of the tenant. The lessees had sublet the premises at a loss, and allowed the rent to fall in arrear. The lessor then reëntered, relet to the subtenant at the rent reserved in the sublease, and

notified the lessees that he would hold them for the deficiency. He now sues for this amount. *Held*, that he is entitled to recover. *Slayton* v. *Jordan*, 42 Wash. L. Rep. 708 (Dist. Col.).

If the lessee did not, in fact, consent to abandon his term, there was undoubtedly a termination by forfeiture. In such a case, the tenant is not liable for future rent. *Ex parte Houghton*, 1 Lowell (U. S.) 554. On the assumption apparently made by the court, however, that there was an abandonment, the great majority of the cases would agree that the estate was not ended, on the ground that there is no surrender when notice is given to the tenant, as in the principal case, of the reletting on his account. *Auer* v. *Penn*, 99 Pa. 370; *Oldewartel* v. *Wiesenfeld*, 97 Md. 165, 54 Atl. 969; *Brown* v. *Cairns*, 107 Ia. 727, 77 N. W. 478. *Contra*, *Gray* v. *Kaufman, etc. Co.*, 162 N. Y. 388, 56 N. E. 903. *Cf. Haycock* v. *Johnson*, 97 Minn. 289, 106 N. W. 304. Where it does not appear that notice was given, however, the authorities almost unanimously hold that there is a surrender. *Amory* v. *Kanhoffsky*, 117 Mass. 351; *Welcome* v. *Hess*, 90 Cal. 507, 27 Pac. 369; *contra; Auer* v. *Hoffman*, 132 Wis. 620, 112 N. W. 1090. On principle it is hard to see why mere notice should be decisive. The contractual theory of mitigation of damages has no application, for the landlord certainly is under no duty to care for the tenant's property in the leasehold, and, on strict theory, he has no right to intermeddle unless authorized. Accordingly, if the landlord relets without the express or implied assent of the tenant, he does an act entirely inconsistent with the continuance of the original lease. *Gray* v. *Kaufman, etc. Co.*, *supra*. To make such conduct operate as a surrender, however, fails to afford adequate protection to the landlord, and since the reletting will usually be for the best interests of the tenant as well, strong practical considerations justify the attitude generally taken by the authorities. The principal case properly applies this doctrine in spite of the provision for forfeiture in the lease, for that was inserted for the landlord's benefit and could therefore be waived by him. *Brown* v. *Cairns*, 63 Kan. 584, 66 Pac. 639.

LANDLORD AND TENANT — SURRENDER BY OPERATION OF LAW — VOID ASSIGNMENT OF THE ORIGINAL LEASE. — A tenant under a term for years with his landlord's consent assigned his lease to "the Merrimack Building Company," which entered into possession and paid rent. There was no law under which the associates could have incorporated and under these circumstances the law of the state allowed a collateral attack. The landlord claimed a merger of the term through a surrender by operation of law. *Held*, that the term still remained in the original tenant, but that an equitable interest passed to the associates of the company, and *decreed* that title be quieted in the latter. *Johnson* v. *Northern Trust Co.*, 106 N. E. 814 (Sup. Ct., Ill.).

For a discussion of the place of intent of the parties in the law of surrenders by operation of law, see NOTES, p. 313.

PARENT AND CHILD — PARENTS' LIABILITY FOR TORT OF CHILD — KNOWLEDGE OF PREVIOUS COMMISSION OF SIMILAR DANGEROUS ACT. — The defendant's minor son kicked the plaintiff, another infant, and injured him. It was alleged that the same boy had kicked the plaintiff on a previous occasion, and there was evidence that his father had notice of this fact. At the trial the jury found for the plaintiff. *Held*, that the defendant was not liable whether he had notice or not. *Corby v. Foster*, 29 Ont. L. R. 83 (Sup. Ct. Ont., App. Div.).

Under the civil law a parent is liable for the tort of his minor child. MERRICK, CIVIL CODE, LOUISIANA, § 2318; *Marionneaux* v. *Brugier*, 35 La. Ann. 13. But at common law the general rule is that the mere relation imposes no such liability upon the parent. *Bassett* v. *Riley*, 131 Mo. App. 676, 111 S. W.